

1 TOURISM, ARTS AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 2:195. Falconry, raptor take, and raptor propagation.

5 RELATES TO: KRS 150.010, 150.180, 150.183, 150.290, 150.305, 150.320, 150.330,
6 150.360

7 STATUTORY AUTHORITY: KRS 150.025(1), 150.280(1), 50 C.F.R. Parts 13, 17, 21, 22

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the
9 department to promulgate administrative regulations establishing open seasons for the
10 taking of wildlife, bag limits, and methods of taking wildlife, and to make these
11 requirements apply to a limited area. KRS 150.280(1) requires the department to
12 promulgate administrative regulations establishing procedures for propagating and
13 holding of protected wildlife. 50 C.F.R. Parts 13, 17, 21, and 22 establish requirements for
14 permitting, taking, possessing, and selling of raptors and endangered and threatened
15 species. This administrative regulation establishes permitting, taking, possessing, and
16 reporting requirements for people engaged in falconry and raptor propagation.

17 Section 1. Definitions. (1) "Adult" means a raptor that is at least one (1) year old.

18 (2) "Captive-bred raptor" means a raptor, or the eggs thereof, hatched in captivity

1 from parents in captivity.

2 (3) "Eyas" means a young raptor that is still in the nest and not capable of flight.

3 (4) "Falconry" means caring for and training wild or captive-bred raptors for the
4 pursuit of wild game.

5 (5) "Hack" means the temporary release of a raptor held for falconry to the wild so
6 that it can survive on its own.

7 (6) "Hybrid raptor" means an offspring produced by two (2) distinct raptor species.

8 (7) "Imprinted" means a raptor that has been hand-raised by a human in isolation
9 from the sight of other raptors from two (2) weeks of age through fledging.

10 (8) "Native raptor" means a raptor species which has historically existed or currently
11 exists in the wild in Kentucky without introduction by humans.

12 (9) "Passage bird" means a raptor less than one (1) year of age that is capable of
13 sustained flight and is no longer dependent on parental care.

14 (10) "Wild raptor" means a raptor that was originally taken from the wild.

15 Section 2. Federal requirements. Except as established in Sections 3 through 11 of this
16 administrative regulation, a person shall be in compliance with the federal requirements
17 established in 50 C.F.R. Parts:

18 (1) 13;

19 (2) 17;

20 (3) 21; and

1 (4) 22.

2 Section 3. Permits and Licenses. (1) A person shall be required to obtain and possess
3 a valid falconry permit to take or possess a raptor for use in falconry.

4 (2) A raptor obtained with a valid falconry permit shall not be used or kept for
5 purposes other than falconry.

6 (3) A person with a valid state or federal falconry permit:

7 (a) May take wildlife pursuant to applicable statewide requirements if the falconer:

8 1. Has a valid Kentucky hunting license; or

9 2. Is hunting license exempt pursuant to KRS 150.170; and

10 (b) Shall not be required to obtain a wildlife transportation permit pursuant to 301
11 KAR 2:081 and 2:082 if the person:

12 1. Is importing or transporting a legally held falconry raptor into Kentucky; or

13 2. Is transporting a legally held falconry raptor into and through Kentucky to a
14 destination outside of Kentucky.

15 Section 4. Falconry Permit Requirements, Classes of Permits, and Apprentice
16 Sponsors. (1) To obtain a falconry permit of any class, a person shall:

17 (a) Complete a Kentucky Falconry Permit Application form provided by the
18 Department; and

19 (b) Submit to the department:

20 1. The completed application;

1 2. The appropriate fee, as established in 301 KAR 3:022; and

2 3. A completed Raptor Facilities and Equipment Inspection Report form signed by a
3 department[state] conservation officer, department biologist, or department approved
4 representative.

5 (2) An apprentice falconry permit applicant shall:

6 (a) Be at least twelve (12) years old;

7 (b) Obtain a sponsor who holds a valid Kentucky general or master falconry permit
8 pursuant to subsection (12) of this section;

9 (c) If under eighteen (18) years old, have a parent or legal guardian co-sign the
10 application;

11 (d) Contact the department to schedule a time to take a written exam administered
12 by the department;

13 (e) Provide photo identification prior to taking the exam;

14 (f) Complete the written exam within ninety (90) minutes;

15 (g) Only take the written exam one (1) time in a given day; and

16 (h) Pass the written examination by scoring a minimum of eighty (80) percent.

17 (3) An applicant shall not take more than three (3) exams in any twelve (12) month
18 period.

19 (4) A person shall submit an application within twelve (12) months of passing the
20 falconry exam, or the application shall be invalid.

1 (5) An apprentice class falconry permit holder shall:

2 (a) Only possess one (1) of the following wild or captive-bred raptors at any given
3 time:

4 1. American kestrel (*Falco sparverius*);

5 2. Red-tailed hawk (*Buteo jamaicensis*);

6 3. Red-shouldered hawk (*Buteo lineatus*); or

7 4. Harris's hawk (*Parabuteo unicinctus*);

8 (b) Not possess a raptor:

9 1. Taken from the wild as a nestling; or

10 2. That is imprinted on humans; and

11 (c) Only take a wild raptor under the direct supervision of the permit holder's
12 sponsor.

13 (6) A general class falconry permit applicant shall:

14 (a) Be at least sixteen (16) years old;

15 (b) If under eighteen (18) years old, have a parent or legal guardian co-sign the
16 application;

17 (c) Have practiced falconry at the apprentice level for at least two (2) years; and

18 (d) Have complied with all previous year reporting requirements, if applicable,
19 pursuant to Section 7 of this administrative regulation.

20 (7) A first time general class permit applicant shall:

(a) Submit to the department a completed Kentucky Apprentice Falconer Activity Report;

(b) Practice falconry with a wild raptor at the apprentice level for at least two (2) years; and

(c) Maintain, train, and hunt with a raptor for an average of six (6) months per year with at least four (4) months in each year.

(8) A general class falconry permit holder shall:

(a) Be allowed to possess the following:

1. A raptor obtained from the wild;

2. A hybrid raptor; or

3. A captive-bred raptor; and

(b) Not possess more than three (3) of the following raptors at any given time:

1. Great horned owl (*Bubo virginianus*); or

2. Any member of the Order Falconiformes, except for the following species which shall not be possessed:

a. Golden eagle (*Aquila chrysaetos*);

b. Bald eagle (*Haliaeetus leucocephalus*);

c. White-tailed eagle (*Haliaeetus albicilla*); or

d. Stellar's sea eagle (*Haliaeetus pelagicus*).

(9) A master class falconry permit applicant shall:

1 (a) Have held a valid general class falconry permit for at least five (5) years; and

2 (b) Have complied with all previous year reporting requirements, pursuant to Section
3 7 of this administrative regulation.

4 (10) A first time master class permit applicant shall submit to the department a
5 completed Kentucky General Falconer Upgrade Report, signed by the applicant and one

6 (1) reference who is a permitted master or general class falconer, attesting that the
7 applicant has practiced falconry:

8 (a) At the general class permit level for at least five (5) years; and

9 (b) For an average of four (4) months a year, in at least four (4) out of the last five (5)
10 years.

11 (11) A master class falconry permit holder:

12 (a) Shall not possess more than five (5) of the following wild raptors at any given
13 time:

14 1. Great horned owl; and

15 2. Any member of the Order Falconiformes except a bald eagle;

16 (b) Shall obtain prior approval from the department pursuant to the requirements of
17 50 C.F.R. 21 and 22 to possess any of the following raptors:

18 1. Golden eagle;

19 2. White-tailed eagle; or

20 3. Stellar's sea eagle; and

(c) May possess any number of captive-bred raptors of the species allowed in paragraph (a) and (b) of this subsection.

(12) An apprentice sponsor shall:

(a) Not have more than three (3) apprentices at any given time;

(b) Be at least eighteen (18) years old;

(c) Possess a valid Kentucky general or master class falconry permit;

(d) Have held a general class falconry permit for a minimum of two (2) years; and

(e) Submit a signed letter to the department:

1. Attesting that the sponsor will assist the apprentice in:

a. Learning about the husbandry and training of raptors held for falconry;

b. Learning relevant wildlife laws and regulations;

c. Deciding which species of raptor is most appropriate for the apprentice to possess;

d. Providing direct supervision to the apprentice while trapping wild raptors; and

e. Evaluating the apprentice's facility and bird a minimum of one (1) time every twelve (12) months; and

2. Containing the sponsor's:

a. Name;

b. Falconry permit number;

c. Address; and

d. Telephone number.

1 (13) A sponsor who is withdrawing sponsorship of an apprentice shall:

2 (a) Notify the department in writing within five (5) days of withdrawing the
3 sponsorship; and

4 (b) Provide the apprentice with a signed and dated document stating the length of
5 time that the apprentice practiced falconry under the sponsor's guidance.

6 (14) An apprentice who loses sponsorship shall obtain a new sponsor within thirty
7 (30) days from the sponsor's notification of withdrawal.

8 (15) A new sponsor shall be in compliance with the requirements established in
9 subsection (7) of this section.

10 (16) If an apprentice fails to obtain a new sponsor within thirty (30) days, the
11 department shall:

12 (a) Revoke the apprentice's falconry permit; and

13 (b) Confiscate any raptor in the apprentice's possession if the apprentice does not
14 transfer ownership of the raptor to another licensed falconer.

15 (17) A non-resident falconer who moves to Kentucky to establish residency shall
16 apply for the appropriate Kentucky falconry permit within thirty (30) days after moving.

17 (18) A resident falconry applicant who is a new resident of the United States shall
18 obtain the appropriate Kentucky falconry permit by:

19 (a) Meeting the application requirements established in subsection (1) of this section;

20 (b) Contacting the department to schedule a time to take a written examination

1 administered by the department;

2 (c) Passing the written examination by scoring a minimum of eighty (80) percent; and

3 (d) Providing to the department written documentation of previous falconry
4 experience including:

5 1. The number of years the applicant has practiced falconry;

6 2. The raptor species used in falconry; and

7 3. The game species taken with falconry.

8 (19) A person who held a valid Kentucky falconry permit within the last five (5) years,
9 but has allowed the permit to lapse, may apply for reinstatement at the class level
10 previously held by:

11 (a) Complying with the application requirements established in subsection (1) of this
12 section; and

13 (b) Providing the department with proof of previous certification at that class level.

14 (20) An apprentice or general falconer whose Kentucky falconry permit has lapsed for
15 a period greater than five (5) years may apply for reinstatement at the class level
16 previously held by:

17 (a) Complying with the application requirements established in subsection (1) of this
18 section;

19 (b) Complying with the examination requirements established in subsection (2) of this
20 section; and

1 (c) Providing the department with proof of previous certification at that class level.

2 (21) A master class permittee whose Kentucky falconry permit has lapsed for a period
3 greater than five (5) years will be reinstated at the general class level, provided he
4 satisfies the application requirements in subsection (1) of this section.

5 (a) A person formerly permitted at the master class level, and reinstated at the
6 general class level shall actively practice falconry for an average of four (4) months a
7 year, in at least two (2) out of the last three (3) years prior to upgrading to a master class
8 permit.

9 (b) A person applying for master class reinstatement shall:

10 1. Submit to the department a Kentucky General Falconer Upgrade Report;

11 2. Have complied with all previous years' reporting requirements, as established in
12 Section 7; and

13 3. Provide the department with proof of previous certification at the master class
14 level.

15 (22) A falconry permit holder shall not be required to pay the permit fee established
16 in 301 KAR 3:022 if the permit holder's current permit has not yet expired and the
17 permit holder is applying for:

18 (a) An upgrade to the next falconry class; or

19 (b) A facility relocation.

20 Section 5. Facility, Equipment, and Care Requirements. (1) A falconry permit holder

1 shall comply with all federal requirements established in 50 C.F.R. Part 21 for the permit
2 holder's:

3 (a) Facility;

4 (b) Equipment; and

5 (c) Treatment and care for possessed raptors.

6 (2) A permittee shall keep all:

7 (a) Raptors in humane and healthy condition; and

8 (b) Facilities and equipment in serviceable, safe, and sanitary condition, as established
9 in 50 C.F.R. Part 21.

10 (3) A falconry permit holder who is relocating a raptor facility shall:

11 (a) Notify the department within five (5) business days of relocation; and

12 (b) Have a relocated raptor facility inspected and approved by a department
13 conservation officer, department biologist, or department approved representative
14 within thirty (30) days of relocation.

15 (4) A department conservation officer, department biologist, or department approved
16 representative shall only inspect a raptor facility:

17 (a) In the presence of the permit holder;

18 (b) On a weekday; and

19 (c) Between 8 a.m. and 8 p.m. local time.

20 Section 6. Banding, Tagging, and Telemetry Requirements. (1) A falconry permit

holder shall comply with federal banding, tagging, and telemetry requirements established in 50 C.F.R. Part 21.

(2) A falconry permit holder who is required by federal regulations to band a raptor shall:

(a) Contact the department to request leg bands at least fifteen (15) days prior to obtaining a raptor; and

(b) Only use U.S. Fish and Wildlife Service leg bands that are issued by the department.

(3) A falconry permit holder shall attach at least two (2) radio transmitters to a hybrid raptor if the permit holder is flying it untethered in the wild.

Section 7. Raptor Take and Release, Recordkeeping, and Reporting Requirements. (1) Unless exempted by KRS 150.170, a Kentucky falconry permit holder shall have in possession a valid Kentucky hunting license when taking a raptor from the wild.

(2) When taking a raptor from the wild, a nonresident shall have in possession:

(a) A valid Kentucky nonresident hunting license;

(b) A valid falconry permit or equivalent from the nonresident's home state; and

(c) An approved Kentucky Nonresident Raptor Take Form.

(3) To obtain a Kentucky Nonresident Raptor Take Form, a person shall:

(a) Print a copy of the form from the department's Web site at fw.ky.gov; or

(b) Contact the department at 800-858-1549 and request a mailed copy.

1 (4) A person shall submit to the department a completed and signed Kentucky
2 Nonresident Raptor Take Form at least fifteen (15) working days prior to the requested
3 take date.

4 (5) A falconry permit holder shall be responsible for complying with all applicable
5 federal requirements if taking raptors on federal land.

6 (6) A falconry permit holder who is a nonresident shall only take one (1) legal raptor
7 in Kentucky per calendar year.

8 (7) An approved Kentucky Nonresident Raptor Take Form shall only be issued to a
9 person whose state of residence allows a Kentucky resident to legally take a raptor from
10 that state.

11 (8) A nonresident falconer who takes a raptor in Kentucky shall submit to the
12 department a completed and signed Falconry Take Location Report within five (5) days
13 of taking a bird.

14 (9) A licensed falconer shall comply with all raptor take requirements established in
15 50 C.F.R. 21 in addition to the requirements established in this section.

16 (10) A resident falconry permit holder shall not take more than two (2) raptors from
17 the wild in any calendar year.

18 (11) An eyas shall only be taken:

19 (a) By a general or master class falconry permit holder; and

20 (b) From January 1 through July 31.

(12) A person shall not take more than one (1) sharp-shinned hawk (*Accipiter striatus*)
eyas per calendar year.

(13) There shall be an annual maximum quota for sharp-shinned hawk eyases of:

(a) Ten (10) for Kentucky residents; and

(b) Five (5) for nonresidents.

(14) Prior to taking a sharp-shinned hawk eyas, a person shall be responsible for
calling the department at 800-858-1549 to check if the sharp-shinned hawk eyas annual
quota has been reached.

(15) A person shall not take a sharp-shinned hawk eyas from a nest unless there are
at least three (3) eyases in the nest.

(16) Each person who takes a sharp-shinned hawk eyas shall submit to the
department the Falconry Take Location Report within five (5) days of possession.

(17) Any permit class falconer may take a passage bird if it is a species the falconer is
allowed to possess as established in Section 4 of this administrative regulation.

(18) The allowable period of take for:

(a) A passage bird, other than a great horned owl, shall be September 1 through
January 31;

(b) An adult or passage bird great horned owl shall be September 1 through October
31; and

(c) An adult American kestrel shall only be taken from September 1 through January

31.

(19) An adult American kestrel or adult great horned owl shall only be taken by a:

(a) General class permit holder; or

(b) Master class permit holder.

~~(20) [A person shall not take a peregrine falcon (*Falco peregrinus*) from the wild in Kentucky.~~

~~(21)]~~ A person shall not release the following raptors into the wild:

(a) A non-native raptor;

(b) A hybrid raptor; or

(c) A captive-bred, native raptor.

~~(21)]~~~~(22)]~~ Prior to releasing a raptor into the wild, a person shall remove all leg bands from the bird, except that a falconer who intends to release a wild caught peregrine falcon previously used in falconry shall contact the department's Falconry Coordinator to:

(a) Have the department band the bird with a permanent band; and

(b) Release the bird only in a county approved in writing by the department's Falconry Coordinator.

~~(22)]~~~~(23)]~~ A falconry permit holder shall complete and submit to the department a federal form 3-186A or enter the required information in the federal database at <https://epermits.fws.gov/falcP/>~~[<http://permits.fws.gov/186A/>]~~ within five (5) days if a

1 raptor is:

- 2 (a) Acquired;
- 3 (b) Transferred;
- 4 (c) Released;
- 5 (d) Lost;
- 6 (e) Rebanded;
- 7 (f) Microchipped;
- 8 (g) Stolen; or
- 9 (h) Dead.

10 ~~(23)~~(24) A falconer shall retain copies of each submitted 3-186A form or the
11 electronically submitted data for a minimum of five (5) years following a raptor's:

- 12 (a) Transfer;
- 13 (b) Release;
- 14 (c) Loss; or
- 15 (d) Death.

16 Section 8. Transfer of Ownership and Propagation. (1) A falconry permit holder may
17 transfer ownership of a wild-caught raptor pursuant to 50 C.F.R. Part 21, but shall not
18 engage in the following activities with wild-caught raptors:

- 19 (a) Selling;
- 20 (b) Purchasing;

1 (c) Trading; or

2 (d) Bartering.

3 (2) A falconry permit holder may transfer a wild-caught raptor to a person who
4 possesses a valid federal raptor propagation permit if:

5 (a)1. The raptor has been used in falconry for at least one (1) year for the following
6 species:

7 a. Sharp-shinned hawk;

8 b. Cooper's hawk (*Accipiter cooperii*);

9 c. Merlin (*Falco columbarius*); or

10 d. American kestrel; or

11 2. The raptor has been used in falconry for at least two (2) years for all other legal
12 species of raptor; and

13 (b) The person receiving the transferred bird possesses a valid state captive wildlife
14 permit.

15 (3) A person who legally possesses a captive-bred raptor may engage in the activities
16 listed in subsection (1)(a) through (d) of this section if:

17 (a)1. The transferred bird is marked with a metal leg band; or

18 2. The transferred bird is implanted with a microchip pursuant to 50 C.F.R. Part 21;

19 and

20 (b) The person in receipt of the bird possesses:

1 1. The appropriate class falconry permit; or

2 2. A valid federal raptor propagation permit.

3 (4) A person shall not breed or propagate a native raptor without first obtaining:

4 (a) A federal raptor propagation permit, pursuant to 50 C.F.R. Part 21; and

5 (b) The appropriate Kentucky captive wildlife permit, pursuant to 301 KAR 2:081.

6 (5) A person who is propagating a native raptor shall submit to the department
7 copies of all the following materials required by 50 C.F.R. Part 21:

8 (a) The raptor propagation application;

9 (b) Propagation records; and

10 (c) Propagation reports.

11 (6) The materials required in subsection (5) of this section shall be submitted to the
12 department by the same dates required in 50 C.F.R. Part 21.

13 Section 9. Other Activities. (1) A falconry permit holder may use a raptor for
14 conservation education programs, pursuant to 50 C.F.R. Part 21.

15 (2) A falconry permit holder who is in compliance with the permit requirements for
16 Special Purpose Abatement, pursuant to 50 C.F.R. Part 21, may receive payment for
17 nuisance wildlife control work if the permit holder also possesses a valid Kentucky
18 Commercial Nuisance Wildlife Control permit, pursuant to 301 KAR 3:120.

19 (3) A person may assist a permitted wildlife rehabilitator, as established in 301 KAR
20 2:075, in conditioning raptors for subsequent release into the wild if the person is:

1 (a) A general or master class falconry permit holder; and

2 (b) Working with a species the falconry permit holder is allowed to possess.

3 (4) A general or master class permit holder may hack a raptor, previously used for
4 falconry, if the permit holder is in compliance with 50 C.F.R. 21 and contacts the
5 department to provide the information established in paragraph (a) through (d) of this
6 subsection.

7 (a) The hack site location;

8 (b) The species of raptor;

9 (c) The origin of the raptor; and

10 (d) The planned hacking dates.

11 Section 10. Passage Tundrius Peregrine Falcon Take Opportunity Drawing. (1)

12 Dependent upon the number of passage tundrius peregrine falcon take opportunities
13 allocated to the department by the U.S. Fish and Wildlife Service, the department shall
14 administer a random drawing annually for the passage tundrius peregrine falcon take
15 opportunities allocated.

16 (2) One passage tundrius peregrine falcon take opportunity, authorizing the take of
17 one (1) passage tundrius peregrine falcon, will be awarded per drawn falconer.

18 (3) To be eligible for the passage tundrius peregrine falcon take opportunity drawing,
19 falconers shall:

20 (a) Be a resident of Kentucky;

1 (b) Have a valid Kentucky resident hunting license or be license exempt, as
2 established in KRS 150.170;

3 (c) Have a valid Kentucky master class falconry permit, pursuant to Section 4 of this
4 administrative regulation;

5 (d) Submit to the department a complete and accurate online application at fw.ky.gov
6 by July 31; and

7 (e) Not have been convicted of violating any Kentucky falconry regulation in the past
8 five (5) years.

9 (4) The department will notify the drawn falconer, by their preferred method of
10 contact as indicated on the application, no later than August 15.

11 (5) Upon notification, drawn falconers must contact the department's Falconry
12 Coordinator by phone or email within ten (10) calendar days to accept the passage
13 tundrius peregrine falcon take opportunity. Failure to accept a passage tundrius
14 peregrine falcon take opportunity within ten (10) calendar days will result in a forfeiture
15 of the passage tundrius peregrine falcon take opportunity.

16 (6) If the passage tundrius peregrine falcon take opportunity is forfeited, the
17 department shall conduct additional random drawings until the passage tundrius
18 peregrine falcon take opportunity is accepted or until the take period has passed, as
19 established in this section.

20 (7) If a passage tundrius peregrine falcon take opportunity is awarded and accepted,

1 the drawn falconer shall:

2 (a) Carry on his or her person an authorization letter provided by the department to
3 take one (1) passage tundrius peregrine falcon;

4 (b) Only take a passage tundrius peregrine falcon between September 20 and
5 October 20 of the year the passage tundrius peregrine falcon take opportunity is
6 awarded;

7 (c) Not take or attempt to take a passage tundrius peregrine falcon from a county in
8 which the trapping of a passage tundrius peregrine falcon is prohibited, as established
9 by the department;

10 (d) Immediately release any captured peregrines of non-tundrius subspecies or birds
11 with a band or research marker, except that bands and research marker information
12 must be photographed or otherwise recorded and reported to the department within
13 forty-eight (48) hours of release;

14 (e) Report to the department's Falconry Coordinator the take of a passage tundrius
15 peregrine falcon within twenty-four (24) hours by phone or email at
16 FWFalconry@ky.gov;

17 (f) Within ten (10) calendar days of taking of a passage tundrius peregrine falcon,
18 make arrangements for the department to:

19 1. Inspect the passage tundrius peregrine falcon;

20 a. If the captured falcon is determined not to be a passage tundrius peregrine falcon,

1 the bird shall be surrendered to the department on site; and

2 2. Band the captured passage tundrius peregrine falcon with a U.S. Fish and Wildlife
3 Service falconry band; and

4 (g) Not be eligible to participate in the random drawing for the subsequent two (2)
5 years.

6 (8) The passage tundrius peregrine falcon take opportunity is nontransferable.

7 Section 11~~[40]~~. Revocation of Permits and Appeal Procedure. (1) The department shall
8 revoke the permit, deny the issuance of a new permit, or deny a renewal of an existing
9 or lapsed permit for a period of one (1) year of a person who:

10 (a) Violates any provision of KRS Chapter 150;

11 (b) Violates any department regulation;

12 (c) Violates any federal statute or regulation related to hunting, fishing, or wildlife; or

13 (d) Falsifies a falconry permit application.

14 (2) A person whose permit is denied or revoked may request an administrative
15 hearing pursuant to KRS Chapter 13B.

16 (3) A request for a hearing shall be in writing and postmarked or delivered in person
17 to the department no later than thirty (30)~~[ten (10)]~~ days after notification of the denial
18 or revocation.

19 (4) Upon receipt of the request for a hearing, the department shall proceed according
20 to the provisions of KRS Chapter 13B.

(5) The hearing officer's recommended order shall be considered by the commissioner and the commissioner shall issue a final order pursuant to KRS Chapter 13B.

Section 12[14]. Incorporation by Reference. (1) The following material is incorporated by reference:

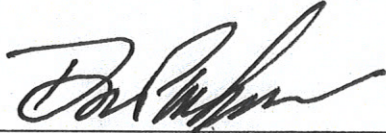
- (a) "Kentucky Falconry Permit Application", 2018 edition;
- (b) "Raptor Facilities and Equipment Inspection Report", 2013 edition;
- (c) "Falconry Take Location Report", 2013 edition;
- (d) "Kentucky Nonresident Raptor Take Form", 2013 edition;
- (e) "Kentucky Apprentice Falconer Activity Report", 2018 edition; ~~and~~
- (f) "Kentucky General Falconer Upgrade Report", 2018 edition;
- (g) "Kentucky Passage Tundrius Peregrine Falcon Falconry Take Opportunity Application", 2019 edition; and
- (h) "Kentucky Counties Where Trapping Of Passage Tundrius Peregrine Falcons Is Prohibited", 2019 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Eastern Time.

Approved by the Fish and Wildlife Commission

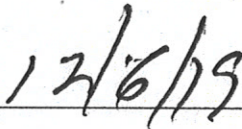
A blue ink signature of Rich Storm, written in a cursive style.

Rich Storm, Commissioner
Department of Fish and Wildlife Resources

A black ink signature of Don Parkinson, written in a cursive style.

Don Parkinson, Secretary
Tourism, Arts and Heritage Cabinet

Date: _____

The date 12/6/19 is handwritten in black ink over a horizontal line.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 26, 2019 at 8:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through February 29, 2019.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jessica Tyler, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone: (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 2:195. Falconry, raptor take, and raptor propagation.

Contact Person: Jessica Tyler

Email: Jessica.tyler@ky.gov

Phone: 502-564-3400

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes permitting, taking, possessing, and reporting requirements for people engaged in falconry and raptor propagation.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to manage and conserve raptors and to provide reasonable opportunities for sport and recreation. This regulation is also necessary to comply with federal regulation requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations establishing open seasons for the taking of wildlife, bag limits, and methods of taking wildlife, and to make these requirements apply to a limited area. KRS 150.280(1) requires the department to promulgate administrative regulations establishing procedures for propagating and holding of protected wildlife. 50 C.F.R. Parts 13, 17, 21, and 22 establish requirements for permitting, taking, possessing, and selling of raptors and endangered and threatened species.

(d) How will this administrative regulation assist in the effective administration of the statutes: By establishing guidelines on raptor propagation and falconry, this administrative regulation facilitates the conservation and management of birds of prey in compliance with the above statutes and 50 C.F.R. Parts 13, 17, 21, 22.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will allow the take of passage tundra peregrine falcons from the wild by master falconers in Kentucky. This species was previously not allowed to be taken from the wild in Kentucky.

(b) The necessity of the amendment to this administrative regulation: This amendment will maximize opportunity for the sportsmen and women of the Commonwealth by providing a new opportunity for Kentucky falconers.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently, there are 90 falconry permit holders who may be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment is to provide an optional opportunity. Falconers are not required to comply with this amendment unless they chose to enter the drawing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional fee required to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendments to this regulation will provide a new opportunity to take a new species of raptor from the wild in Kentucky.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$7000 in program staff time.

(b) On a continuing basis: At least \$2800 in program staff time, but more if the number of take opportunities increase.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the state Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. There is no increase in fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is applied. This opportunity is only available to

individuals who have demonstrated their proficiency in falconry by reaching the master class falconer level.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

301 KAR 2:195. Falconry, raptor take, and raptor propagation.

Contact Person: Jessica Tyler

Email: Jessica.tyler@ky.gov

Phone number: (502) 564-3400

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 150.025(1), 150.280(1), and 50 C.F.R. Parts 13, 17, 21, and 22.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for the first year or ever; however, the falconry permit program generates approximately \$5,000 dollars annually through the sale of falconry permits.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue in subsequent years; however, the falconry permit program generates approximately \$5,000 annually through the sale of falconry permits.

(c) How much will it cost to administer this program for the first year? The cost to administer this program is approximately \$15,000 annually.

(d) How much will it cost to administer this program for subsequent years? The cost to administer this program in subsequent years is approximately \$15,000 annually.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to

explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 CFR Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.
2. State compliance standards. The Department of Fish and Wildlife Resources is required to set falconry requirements and seasons that are within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 CFR Parts 20 and 21.
3. Minimum or uniform standards contained in the federal mandate. 50 CFR Parts 20 and 21 contain minimum federal standards governing falconry, including falconry possession limits, permit requirements, facilities and care standards, and reporting requirements.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?
Yes.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are allowed to be more restrictive, but not more liberal in their respective regulations. Kentucky will be more restrictive in the take requirements for peregrine falcons because they are of conservation concern in the state.

Summary of Material Incorporated by Reference

Summary of Material Incorporated by Reference

- (1) The "Kentucky Passage Tundrius Peregrine Falcon Falconry Take Application" form, 2019 edition, is a one-page, single-sided form that master class falconers must complete before entering the optional lottery to take a passage tundrius peregrine falcon in Kentucky.
- (2) The "Kentucky Counties Where Trapping of Passage of Tundrius Peregrine Falcons is Prohibited" map, 2019 edition, is a one-page, single-sided map that establishes the counties in which the trapping of a passage tundrius peregrine falcon is prohibited.